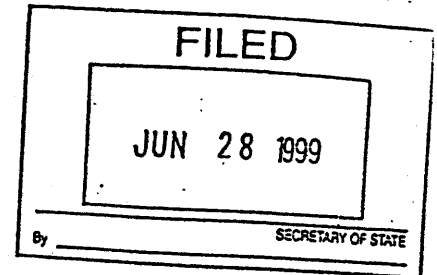


**NEBRASKA ADMINISTRATIVE CODE**



**TITLE 247 NEBRASKA ADMINISTRATIVE CODE, CHAPTER 14**

**NEBRASKA DEPARTMENT OF MOTOR VEHICLES**

**RULES AND REGULATIONS GOVERNING HARDSHIP EXEMPTIONS FOR THE  
RELEASE OF IMMOBILIZED MOTOR VEHICLES PURSUANT TO NEB. REV. STAT.  
§ 60-6,197.01.**

**Issue Date:** \_\_\_\_\_

SEP 19 1996

**TITLE 247 NEBRASKA DEPARTMENT OF MOTOR VEHICLES**

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FOR THE RELEASE OF IMMOBILIZED MOTOR VEHICLES  
PURSUANT TO NEB. REV. STAT. § 60-6,197.01.**

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**TITLE 247 NEBRASKA DEPARTMENT OF MOTOR VEHICLES**  
**CHAPTER 14 RULES AND REGULATIONS GOVERNING HARDSHIP EXEMPTIONS**  
**FOR THE RELEASE OF IMMOBILIZED MOTOR VEHICLES**  
**PURSUANT TO NEB. REV. STAT. § 60-6,197.01.**

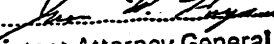
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Scope	60-6,197.01	001
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APPROVED  
DON STENBERG  
ATTORNEY GENERAL

AUG 30 1999

BY   
Assistant Attorney General

SEP 28 1999

## NEBRASKA ADMINISTRATIVE CODE

### Title 247

### Nebraska Department of Motor Vehicles

### Chapter 14

**001 SCOPE.** These rules and regulations set forth limited exceptions to the immobilization of motor vehicles under Neb. Rev. Stat. § 60-6,197.01. This is in accordance with 23 C.F.R. 1275 which allows states to provide limited exceptions to federal requirements for immobilization on an individual basis to avoid undue hardship to a family member by the immobilization of a motor vehicle due to an offender's conviction for a second or subsequent violation of Neb. Rev. Stat. § 60-6,196 or 60-6,197.

### **002 DEFINITIONS.**

**002.01 Bona fide lienholder** means a lienholder properly notated on the Certificate of Title pursuant to Neb. Rev. Stat. § 60-110.

**002.02 Conviction** means a final conviction by a court of competent jurisdiction.

**002.03 Co-owner** means a person, firm, or corporation which holds a legal title of a motor vehicle, who is not an offender. If (a) a motor vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, (b) a motor vehicle is subject to a lease of thirty (30) days or more with an immediate right of possession vested in the lessee, or (c) a mortgagor of a motor vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the co-owner.

**002.04 Department** means the Nebraska Department of Motor Vehicles.

**002.05 Dependant** means an immediate family member, including a spouse, an unmarried child under the age of nineteen (19) years, an unmarried child who is a full-time student under the age of twenty-three (23) years and who is financially dependent upon the co-owner, an unmarried child of any age who is medically certified as disabled and dependent upon the co-owner, or a grandparent(s) who is supported by the co-owner.

**002.06 Immobilized or immobilization** means a court revocation or suspension of the registration of the motor vehicle(s), including the license plates.

**002.07 Offender** means an individual convicted of a second or subsequent violation of Neb. Rev. Stat. § 60-6,196 or 60-6,197 whose motor vehicles have been immobilized.

**002.08 Offender's motor vehicle** means all motor vehicles owned by the offender with a title or registration on which the offender's name appears.

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**002.09 Towing and storage lienholder** means a person who has performed work, labor, exerted care or diligence; who had held the offender's motor vehicle for ninety (90) days; and who has complied with the requirements of Neb. Rev. Stat. 52-601.01, et seq.

**003 IMMOBILIZATION.**

**003.01 Conditions under Which an Offender's Motor Vehicle Is Immobilized.** The court shall order all of the offender's motor vehicles immobilized upon conviction for a second or subsequent violation of Neb. Rev. Stat. § 60-6,196 or 60-6,197.

**003.02 Cost.** The owner shall bear the cost of immobilization.

**003.04 Period of Immobilization.** The court shall order the motor vehicle or motor vehicles immobilized for a period of time not less than five (5) days and not more than eight (8) months.

**003.05 Notification.** The court shall notify the Department of the period of immobilization within thirty (30) days.

**003.06 Alternative to Immobilization.** As an alternative to immobilization, the court shall order the installation of an ignition interlock device on each of the offender's motor vehicles if the offender was sentenced to an operator's license revocation of at least one (1) year and has completed at least one (1) year of that revocation.

**004 RELEASE FROM IMMOBILIZATION.** The court shall release from immobilization any immobilized motor vehicle to a bona fide lienholder, towing and storage lienholder, or co-owner under the following conditions:

**004.01 Bona Fide Lienholder.** Upon application to the court by a holder of a bona fide lien, the court shall release the motor vehicle if the lien was executed and noted on the motor vehicle's Certificate of Title prior to the immobilization and possession of the motor vehicle is necessary by the lienholder for purposes of foreclosing and satisfying such lien.

**004.02 Towing and Storage Lienholder.** Upon application to the county by the holder of a towing and storage lien for towing and storage charges, the court shall release the motor vehicle if the motor vehicle was towed at the direction of a peace officer or the court.

**004.03 Co-owner.** Upon presentation to the court of an Affidavit of Undue Hardship Requesting Exemption from Motor Vehicle Immobilization, Attachment 1 and incorporated herein by reference, the court shall release the motor vehicle to a co-owner. The affidavit must set forth the following qualifications:

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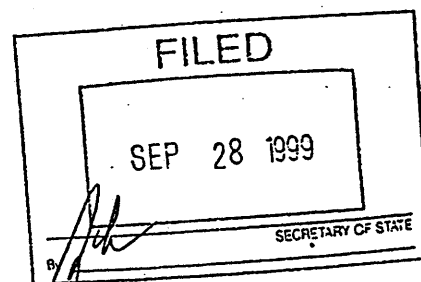
**004.03a Employment.** The co-owner must state in the affidavit that he or she is employed; and

**004.03b Undue Hardship for Co-owner or Co-owner's Dependents.** The co-owner must state in the affidavit that the immobilized motor vehicle is necessary for the employment of the co-owner and the failure to release the motor vehicle will cause undue hardship to the co-owner or dependents; and

**004.03c Unauthorized Use.** The co-owner must state in the affidavit that he or she will not authorize the use of the motor vehicle by a person known by the co-owner to have been an offender and the co-owner will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any offender.

**005 VIOLATION OF AFFIDAVIT.** A co-owner who executes an affidavit which is acted upon by the court and who fails to immediately report the unauthorized use of the motor vehicle which is the subject of the affidavit is guilty of a Class IV misdemeanor and will not be permitted to file any additional affidavits.

Attachment



**APPROVED**  
DON STENBERG  
ATTORNEY GENERAL

AUG 30 1999

BY [Signature]  
Assistant Attorney General

**APPROVED**

SEP 28 1999

[Signature]  
MIKE BOHANNANS  
GOVERNOR

JB  
3

ॐ नमो भगवते वासुदेवाय

STATE OF NEBRASKA, ) AFFIDAVIT OF  
Plaintiff, ) UNDUE HARDSHIP  
v. ) REQUESTING EXEMPTION FROM  
DEFENDANT, ) MOTOR VEHICLE IMMOBILIZATION  
Defendant. )

STATE OF NEBRASKA ) SS  
COUNTY OF \_\_\_\_\_ )

1. I am the co-owner of motor vehicles which have been immobilized by the court due to the conviction of a second or subsequent violation of Neb. Rev. Stat. § 60-6,196 or 60-6,197 by \_\_\_\_\_.

(Offender)

2. I am employed by \_\_\_\_\_  
 \_\_\_\_\_  
 (Employer's Name and Address)  
 and my supervisor's name and phone number is \_\_\_\_\_  
 \_\_\_\_\_  
 (Supervisor's Name)  
 ( ) \_\_\_\_\_  
 (Phone Number)

3. My employment is necessary for my well-being or the well-being of my dependants as follows:

<i>Dependent</i>	<i>Relationship</i>	<i>Age</i>	<i>Address</i>

4. I need the release of immobilized motor vehicles to continue employment. Failure to release the motor vehicle would cause undue hardship to me or my dependents, and I am a registered owner of the following motor vehicles:

<i>Make</i>	<i>Model</i>	<i>Year</i>	<i>VIN</i>

5. I will not authorize the use of the motor vehicle by any person known by me to have been convicted of a second or subsequent violation of section 60-6,196 or 60-6,197, and I will immediately report to a local law enforcement agency any unauthorized use of the motor vehicle by any person known by me to have been so convicted. If I fail to immediately report an unauthorized use of the motor vehicle which is the subject of this affidavit, I shall be guilty of a Class IV misdemeanor and will not be permitted to file additional affidavits to request exemption from motor vehicle immobilization.
6. I will immediately inform the court of any changes to the facts set forth in this affidavit such as loss of employment or change in family status.

WHEREFORE, I pray that the court release the above-cited motor vehicles for my use and the use of my dependents, but not the use of the offender whose conviction lead to the immobilization.

\_\_\_\_\_  
*Signature of Co-owner*

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_ County, Nebraska.

\_\_\_\_\_  
*Notary*